#### MINUTES – JULY 1, 2013

The Caswell County Board of Commissioners met in regular session at the Caswell County Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, July 1, 2013. Members present: Cathy W. Lucas, Chair, Kenneth D. Travis, Vice-Chairman, Nathaniel Hall, Larry G. Hamlett, Jeremiah Jefferies and N. Kent Williamson. Absent: William E. Carter. Also present: Kevin B. Howard, County Manager, Brian Ferrell, County Attorney, and Gerri Hunt representing <a href="https://example.com/The Caswell Messenger">The Caswell Messenger</a>. Paula P. Seamster, Clerk to the Board, recorded the minutes.

#### MOMENT OF SILENT PRAYER

Chair Lucas opened the meeting with a Moment of Silent Prayer.

#### PLEDGE OF ALLEGIANCE

The Board of Commissioners and all the guests in the audience recited the Pledge of Allegiance.

#### APPROVAL OF AGENDA

Chair Lucas stated "I think we have an amendment to the agenda." Commissioner Williamson responded "Yes we do Madam Chairman. We need to add a Closed Session to observe Attorney/Client Privilege – Linda Palmer, Administratrix of the Estate of Crystal Truitt vs. Caswell County, North Carolina; Sheriff Michael L. Welch; Deputy Cole Edwards; Deputy Chelsea Warren; Lieutenant A. D. Rainey; Lieutenant T. Durden; Sergeant Mable Gunter; Corporal Young; and the Ohio Casualty Insurance Company 1:13-cv-492 (United States Middle District of North Carolina)."

Commissioner Williamson moved, seconded by Commissioner Hamlett to approve the agenda as amended. The motion carried unanimously.

#### APPROVAL OF CONSENT AGENDA

Commissioner Travis moved, seconded by Commissioner Jefferies to approve the Consent Agenda. The motion carried unanimously.

The following items were included on the Consent Agenda:

- A. Approval of Minutes of June 17, 2013 Regular Meeting
- B. Approval of Minutes of June 17, 2013 Special Meeting

#### **PUBLIC COMMENTS**

Chair Lucas opened the floor for public comments.

Mr. John Claggett came before the Board and made the following statement:

"Good evening, my name is John Claggett and I reside at 108 Jaye Lane, Providence, NC.

Having attended 99% of the Caswell County Board of Commissioners regular meetings these last four or five years and probably half of those meetings involved questions and comments to this board. Having been appointed unanimously by this board to the Caswell County Planning Board in which I am in good standing to date should somewhat illustrate my concern for not only the taxpayer but all citizens of Caswell County. With that said let me revert back to "the taxpayer". I am a taxpayer, I am one of those good kinds of taxpayers as I pay my taxes in full and on time and I don't receive any services from the county. Having read the article in this week's Messenger regarding the "software malfunction' that caused an overestimation of somewhere between \$650,000 and \$700,000 in tax revenues where the county manager is quoted as saying "What they told me was that when they ran the report, for some reason, it did not take out the deferred values. That's my understanding of it". My fellow taxpayers and I just assumed that the "they" the county manager was talking about was the county tax office. We've also been told that the software referenced has been used for the better part of ten years or more without any occurrence such as this previously. We were taken back by the fact the Tax Director was unavailable for comment until today...So the Tax Director provides the Board of Commissioners with erroneous information and isn't present to address any issues during budget workshops? Doesn't he report directly to this board? Did this board know he was unavailable? Has this board asked what the real reason for the misfire from the tax office was or are you satisfied with for some reason? Since this "glitch" has not been an issue in the past coupled with the absence of the Tax Director along with what the Messenger did and didn't say we're of the opinion that this was not a malfunction of software but a malfunction of time and attention to detail. It's sloppy management, nothing more and nothing less. The taxpayers need to be reassured by the county that in the future that more time and attention be taken with our tax dollars. Thank you."

Chair Lucas asked if there was anyone would like to speak during public comments that did not sign in.

Ms. Rebecca Foster stated "Good evening. Madam Chairman I am not sure if you know I am behind on this and I don't know if you have already made a decision as far as the JCPC issue is concerned." Chair Lucas responded "What I can tell you is the budget was approved on Saturday and the changes that were being proposed were made." Ms. Foster continued "The changes were made?" Chair Lucas responded "Yes ma'am. May I have your name and address?" Ms. Foster responded "Rebecca Foster. So the changes were made?" Chair Lucas stated "It is my understanding that they have been made, yes. Would you still like to address the Board with your concerns?" Ms. Foster responded "Well I was an employee with one of the programs through the JCPC and it moved from the Cooperative Extension to the Parks and Recreation. I have no quarrels about it moving, the quarrel I have was that a person was put there. The other coordinator and myself were not moved with the jobs somebody else was given our jobs without any interview, without any type evaluative process." Chair Lucas asked "Well Ms. Foster may I ask you a question right there because when the RFP goes out for the program, for the overall JCPC program, it was my understanding that employees had to reapply for those positions. Is that not the process or?" Ms. Foster responded "When they did the RFP, the RFP is strictly for the agency to take over the program and as it was with the Cooperative Extension,

Joey Knight was the director of Extension so he was the one that was responsible for hiring an administrator, coordinators, we just did not move you know with the position. That is the problem that I have with all of this. It is not so much that they moved but it is who they made the administrator without going through any evaluative process and you have two people that are presently out of a job. Yes there were two jobs that were from that funding that there were ads for part time positions but why not just move the person that already had the 13 years of experience. That is my whole point and I have been trying to talk to you all for the last 3 or 4 meetings but that is my position with all of this. I don't understand, you know, why it was done the way it was done. Thank you." Chair Lucas asked "Have you addressed with anyone prior to coming to the Board of Commissioners?" Ms. Foster responded "I have filed a grievance." Chair Lucas stated "Okay. Thank you very much."

With no further comments Chair Lucas closed public comments.

#### COYOTE ISSUE IN THE COUNTY

Mr. Justin Mathis stated "My name is Justin Mathis. Some of you I recognize some of the faces and some of the names and some of you I have never seen before in my life so. A little background, I have been a Game Warden for almost 10 years and I have been in Caswell County for about 6 1/2. I moved here in February of 2007. Ms. Seamster called me and said that ya'll requested somebody to come and talk about the coyote issues. This is simply a print out from our website that goes through a lot of such about coexisting with wildlife and specifically I printed off the coyote. My question is what are the issues?"

Chair Lucas asked "What if we don't want to coexist with coyotes?" Mr. Mathis responded "Move away from Caswell County." Chair Lucas continued "Again why are they here?" Mr. Mathis responded "The reason they are here is because of natural migration from the west. In the 1980s is when we really started noticing them in North Carolina. You know you can go anywhere like Mebane or Burlington; they are having a tremendous problem with them. They have been in Mebane for several years and a lot of them used to and I am sure a lot of you are familiar with the fox pens. It is a hunting sport where they pen up large acreage of farm parcels or large tracts of land and they bring foxes in and allow their dogs to run them for sport and there is scoring systems and there are bets and all kinds of stuff and it used to not be so regulated. Back then coyotes were actually being trapped out of state and brought into the state and then put in these fox pens illegally. The reason the coyote was brought into the sport is because they could run longer, they had more stamina and they were quicker than a fox so it was a bigger challenge for their hunting dogs to pursue. With folks coming into the county you know with a non-regulated, illegal type of way a lot of these pins that they were being brought into were not being ran up to code, you could say sort of black market kinds of stuff. They could be ran but there was no regulation on them. They did not have the appropriate permits and they were not inspected so because of that these pens...these pins down east can be 1,000 acres, now we are talking a thousand acres of property you know fenced in and they could use wild animals in them. Well because they were not regulated at that time some of them were illegally operated and coyotes were able to escape in an out of these pens. Now that was a small percentage of it, the largest percentage of it was migration from the west. A lot of people say the Wildlife Commission put them in. The Wildlife Commission has never and will never introduce animals

into the state. That is a myth that has been ongoing for years. I have heard coyotes. I have heard mountain lions. I have heard rattle snakes. Anybody that does that might be associated with them such as with the Red Wolves down east. There is a small area in the state where the red wolves are being reintroduced. We support that agency but we were not the ones that were over it. But as far as the coyotes it is natural migration. My question is, what is the public coming to ya'll with as far as questioning or is it your personal feelings or what are the issues?" Chair Lucas responded "Personal pets being killed, slaughter by coyotes." Mr. Mathis stated "It is a possibility. If you will look in here it has a couple of questions. Is says will coyotes attack my pet? It is very possible. Coyotes are not malicious. They are not just going to go out there and kill every animal that they run into. They are going to eat wild berries, fruits, grubs and all kinds of different stuff but given the opportunity they are a carnivore they will take advantage of a situation. If there is a small animal outside whether it is a rabbit, a cat, a small dog sure there is a possibility. I would say however it is a very slight possibility but there is a possibility."

Chair Lucas asked "Do you know how many fox pens, you referred to fox pens, how many of those legally operate in the county?" Mr. Mathis responded "In the county right now we have 2. We have 2 that are legally operated. I have never had a problem. I know the operators very well and I inspect them on a yearly basis and in my personal opinion their operation in the county has nothing to do with the situation in the county." Chair Lucas continued "Just for informational purposes where are they located?" Mr. Mathis responded "Cherry Grove area." Chair Lucas asked "They are both in the Cherry Grove area?" Mr. Mathis responded "Yes ma'am. One of them is either 160 or 180 acres and the other one is approximately 10 acres. Caswell County is a very rural county. It is abundant and it is full of wildlife and the coyotes are here. One thing that people that I deal with in a public when they ask and some of the questions I get asked are very similar to what ya'll have been asked in that past. They want to know how do you get rid of them. Why are there so many. There are a lot of coyotes in the county but for the land that is available there is really not a lot. It is not over populated. I work a tremendous amount of hours and I am in the woods a lot and I very, very seldom see one. Now with that being said I do hear them from time to time. When I hear them it sound like there are a hundred of them just across the hill and that is just not the case. Usually there is 6 to 8 in a pack. They have a very wide home range and wide is I am saying 30 miles. One day they may be at my residence up off 158 and three weeks later they will be south of 150 towards the Cherry Grove area. They go where the food is at. They do move a lot. This time of year usually from April until now the are little more vocal it seems to be because this is sort of when they start to have pups and the pups start to get up out of their dens and they start moving around as well and younger coyotes seem to be more vocal. Most of the time folks are hearing. I get phone call regularly I am hearing coyotes what can I do. I give them that explanation but as far as legally what can you do you can kill them at any time. In 2012 the Wildlife Commission past a rule with coyotes and feral hogs in which we do have feral hogs in the county as well that you could shoot them at any time, day or night, except on Sundays because you cannot hunt with a firearm on Sundays. Now so that means that you can go outside right now let's day 10:00 tonight when it is dark you can broadcast a spotlight and if you see a coyote you can legally kill it as long as you have a hunting license and along as you have permission to be on the property that you are hunting. On Sundays of course like I said you can't shoot them at night or you can't shoot them with a firearm on Sunday however you can shoot them with a bow and arrow because it is legal to hunt in North Carolina with a bow and arrow on Sundays. With that being said if they are attacking

your dog, your cat, your cow, your horse, your whatever, if they are in your garbage damaging your property and that goes for any wildlife you can kill it to protect your property. If I go through and I am looking out at my backyard and there is a coyote out there that is attacking my small cat I have the legal right to shoot it at any time, day or night, gun or bow or whatever, I have the legal right as does anybody else. That is just like Mr. Baldwin down here, a very big beef cattle producer; I deal with him on a regular basis. He has had some coyote problems in the past I got him in contact with a licensed trapper. We have had a lot of success like that with getting a legal trapper on the property."

Chair Lucas asked "Well that is my next question to you as far as trapping, what is the going rate for trapping coyotes today?" Mr. Mathis asked "What do you mean by the going rate?" Chair Lucas continued "I mean what is the benefit for a trapper?" Mr. Mathis responded "Coyote and fox sales across the state vary and the reason I throw foxes in is because it goes back to these fox pens and the coyote pens. You can sell the pelts for coyotes and foxes I am not sure, don't quote me on a price, it really varies from year to year and depending on the quality of the fur but usually a red may bring \$15 or \$20 and a gray is going to bring less than that. Now however if you sell them alive and I mean alive with their pads still in good conditions you can sell them legally to a fox pen as long as the trapper has the correct permits and the fox pen has the correct permits you can transport them alive and sell them. At one time coyotes were bringing \$125 a piece live and foxes, grays were bringing \$35 to \$50 with reds bring about \$75. That is a lot of money. Now with everything that has gone on in the past few years and folks losing their jobs and people needing money there has been a large flood of trappers in the area so with that influction, you know with supply and demand because there are more trappers the price of coyotes and foxes have went down because these fox pens are getting over ran with folks trying to sell them their coyotes and foxes."

Chair Lucas asked "To become a trapper what do you have to do? I mean is there like a license you..." Mr. Mathis responded "You purchase a trapping license. It depends on whether you want a county license or if you want a state license. It is usually \$10 to \$15 per year and as long as you have that trapping license you can legally go sell them to a license fox pen." Chair Lucas continued "And that is the only law that is standing in the way of someone trapping coyotes? Just the fact that they need to purchase a license." Mr. Mathis responded "Yes that is the only thing they have to have to trap them. As far as hunting them all you have to have is a hunting license so either way if you want to trap them buy a trapping license and if you want to hunt them buy a hunting license."

Chair Lucas asked "Any other questions for Mr. Mathis from the commissioners?"

Commissioner Jefferies asked "I have deer destroying my property what do I do?" Mr. Mathis responded "What are they destroying?" Commissioner Jefferies responded "My corn, wheat and garden." Mr. Mathis asked "Okay. Do you raise it to sell or for the family?" Commissioner Jefferies responded "I raise it to sell and for my family." Mr. Mathis stated "This is something that is very common in the county. I deal with a lot of farmers on this issue. I issue degradation permits. It allows you to shoot the deer at any time. As long as they are in your crop field you can shoot them at any time. Like I said about the coyotes you don't have to have any kind of permit to shoot them if they are damaging your property. Let's say you have corn or soybeans,

soybeans are a perfect example, the deer are out there and they are grazing like crazy and really ruining your yield for the season you can shoot them at any time without a permit however you have to leave them on that property. A permit will allow you to transport them or to utilize the meat for yourself or for your family or to take it so somebody in need. If you don't have a permit you can shoot it you have to leave it laying or you can drag it to the edge of the field but once you shoot it and put it in your vehicle to transport if Mr. Game Warden pulls you over and you have a dead deer and it is out of season the you don't have a way to prove that you killed it legally. Do you understand what I am saying?" Commissioner Jefferies responded "I understand." Mr. Mathis continued "I will be more than happy to help you out on that, write you a permit, come down and look at your farm, by law it is only a \$50 minimum actually if the deer are destroying \$50 of your property then we can actually issue you a permit."

Chair Lucas asked "Justin how long have you been in the county?" Mr. Mathis responded "Since February of 2007 so 6 1/2 years." Chair Lucas continued "Has the coyote population or the coyote problem seemed to have increased since you have been here?" Mr. Mathis responded "No to me it seems very stable. I work Caswell, Alamance and Orange counties. Alamance and Orange are by far having more issues than Caswell. Like I said before we have a lot of land in the county. We are a very rural county. Folks in Mebane and I am saying downtown Mebane are having issues with coyotes getting into their trash, dealing with their small animals. I was driving down the road the other day and saw one in the middle of the daylight standing on the side of the interstate. I have been here in this county for 6 or 7 years and I may have saw 3 or 4. They are here but there is enough land for them. I guess the uneducated public does not realize what a coyote is a lot of folks but them in the same mind frame as a wolf or something like that. They are very small animals; you know 40 or 50 lbs. They look like a small German Sheppard. I saw the eyebrow raised." Chair Lucas stated "I am just picturing the one that my son killed and he is 6 foot and he held it up and it was his full length." Mr. Mathis responded "Yes if you stretch them out yes they are going to be 5 or 6 foot but they are about 40 or 50 lbs. and they are real fuzzy. Usually during deer season they put on a lot of fur for the winter time and stuff and they look bigger than they are."

Commissioner Hamlett asked "Weren't they put here because of the deer population? Do they kill deer?" Mr. Mathis responded "Yes but they were not put here. Coyotes were never introduced by any agency." Commissioner Hamlett continued "They just crawled on in here?" Mr. Mathis responded "Yes by regular migration and they were brought in by unlawful fox trappers and stuff like that. That was back in the 80s when it was really big as far as the dog running. They are just here and honestly the only thing I can say is we are not going to get rid of them. We need to learn how to deal with them and like I said shoot them when you see them. They do some damage to the deer population but we have a ton of deer and they really don't do the damage." Commissioner Hamlett stated "I was going to get into that. We need to shoot some deer during the night time."

Chair Lucas stated "I think Justin the basis for bringing this to the public's attention was because there were some calls by individuals in the county were their pets have actually been mutilated by coyotes and they were long time pets. One in Milton and both mine personally. My concern is how do we get rid of them and you are saying we can get rid of them but trapping is the way to go is that what you are saying?" Mr. Mathis responded "Trapping or shooting. Like I said the

state as a whole has opened up the water gates on the legalities of it, you can shoot them at any time. You can go out and actively pursue them at night time with calls which is a very popular thing out west and becoming more popular out here. You can use anything like a rabbit squealer or anything like that to attract them." Commissioner Hamlett stated "They work." Mr. Mathis responded "They work very well. It is just more challenging in the eastern part of the country compared to the western part." Chair Lucas asked "Do you have to have any special permission to do that?" Mr. Mathis responded "Well in Caswell County you have to have written permission anywhere you hunt." Chair Lucas continued "I know that but what if it is on your own land?" Mr. Mathis responded "You just need to have a hunting license, a hunting license or a trapping license. Trapping them is probably one of the better ways but you know."

Chair Lucas asked "Any other questions for Mr. Mathis tonight? If not, thank you very much. This is helpful information." Mr. Mathis responded "Not a problem. I would like to give you all my phone number is care to write it down great if not no big deal, it is 336-264-9823. That is my work cell number. I keep it with me all the time. Like I said a lot of the public has my number, they call me a lot and I get these same questions. If at any time you all get a phone call from the public and want find out something pick up the phone and give me a shout. I will be more than happy to help you out." Chair Lucas stated "Thank you very much. Thank you for your time."

### **DETENTION CENTER UPDATE**

Mr. Dennis Foster stated "Good afternoon gentlemen. The muffin monster is on site. It arrived this morning. The plumber will be here in the morning to install it. It is only a week late. It is here." Chair Lucas stated "Forgive us if we don't seemed thrilled." Mr. Foster responded "I am thrilled it is here." Chair Lucas continued "I know you are. Thank you."

Mr. Foster stated "The TVs are in and functional. The computer and phones are in and functional. The conduit to the courthouse is in. They were supposed to pull the cable in there last week. The electricity to the lift station is installed. The high performance floors are in. The walls will be finished tomorrow. The tile is finished except for one little area that he forgot. The kitchen equipment is in. It is being hooked up today. The laundry equipment is in and on site and will be hooked up as soon as I get the kitchen equipment hooked up. The door frame and the door itself in the other office near the records room is on site and will be installed tomorrow. The painters are on site to punch it out and finish what they have to do. We had the state boiler inspector check out your water heaters and everything is good to go there. The plumbers are on site. They are the ones that are installing the kitchen equipment, the laundry equipment and will punch out their part of the work. I guess you have noticed the copper lines hanging over the side of the building, they will not stay there. I found a document from April of 2012 with direction as to that would be inside the building and hidden so they are on notice and they will be out to fix that stuff. They will not be hanging over the wall like that; it will be hidden from sight. We are still waiting for the check from the insurance company to fix the fire hydrant to turn the sprinkler system on. I have spoken with the insurance company everything is settled. It is just a matter of getting the check in hand so I can get my contractor out here to fix it. One of our other hold ups is the integration of the building management system to the watch tower, to the fire controls. CCD's construction change direction has been issued. These folks have been contacted. They will be on site shortly to get all this stuff working so you can go and push a button to make

everything work. We let the contract for the retaining walls and the sidewalks that were destroyed during the installation of the lift station until it dries up a little bit out there. These guys will be in here to take care of that. The language for the signage has been defined and these are in production as the moment. The video visitation hook ups all the equipment is here. Simplex will be in to hook these things up tomorrow and get them calibrated and working. We got the ceiling track in the kitchen. We have to get the electricians back. I guess each and every contractor has a little bit to do in the kitchen, the exhaust vents, your fire alarms, cameras, lights, alarms. It is one small room. It has 6 lights and they have to put in a few devices. Once that is in there and we have the watch building management system hooked up then we will do the smoke evac test, all your alarm systems, and everything to make sure that everything is working as it should. Then we will get that inspected and get that one off. I got a note from HM Kern that we have to put a roof access on the second floor to access the plenum, well the south stairwell end of the building. We did not have enough room to do it from inside the building. His document said he would be here early this week and they will have it installed. The kiosks are almost ready to go right? All the wiring is there. We just have to put them on the wall and let them roll. The freezer and refrigerator these guys are to be back this week to charge the compressors and turn these things on and get them working. I did get the fuses that go with them. That is where we stand at the moment."

Commissioner Hamlett asked "How many days are they going to work this week?" Mr. Foster responded "Well I got a note that I was supposed to take Thursday and Friday off but I told me boss that if anybody wants to work we will be here or I would be here."

Chair Lucas asked "So we have a finish date or a readjusted date?" Mr. Foster responded "I cannot give you an exact date." Chair Lucas continued "Can you give us an estimate of a date?" Mr. Foster responded "My estimates have been so far off. I would say by the end of July." Chair Lucas asked "Pardon me?" Mr. Foster responded "By the end of July I intend to have the c of o." Chair Lucas continued "What is the time frame for actually getting the inspections done? Doesn't that take some time to do?" Mr. Foster responded "Well what I have to do is have our local inspector...like the boiler inspector; he had to come in and look at the water heaters. We have the overhead administrative part is right. As soon as we get these few items taken care of back in the housing area and the smoke evac works and the fire alarms come on and all of that then the local building inspector will check off on that and we will be good to go there. Then we have to have DHHS come out and do a walk through which will be the fire marshal. I have spoken with people, I don't think the Department of Corrections has to be here, I have asked everybody involved so the Department of Health and Human Services will be our last hurdle."

Commissioner Hamlett stated "I saw a lot of people out there last week and I saw a lot of work done last week." Mr. Foster responded "It works better when we have people on the job. It is a lot better." Commissioner Hamlett continued "I saw where you got all the desks and everything in." Mr. Foster responded "Yes all the furniture and everything is installed. I had on the Big Valley the other day and it is working."

Chair Lucas asked "Mr. Foster could you give a written copy of what you just presented to each of the commissioners. If it is in the form of an email or..." Mr. Foster asked "What I just went

through here?" Chair Lucas responded "Yes." Mr. Foster stated "Yes ma'am." Chair Lucas continued "If you could forward that to each commissioner it certainly would be helpful." Mr. Foster responded "I certainly will." Chair Lucas stated "Thank you. You are welcome to stop by and take a look at it. It is starting to come together." Commissioner Hamlett responded "I will be out there Friday morning."

#### VOTING DELEGATE FOR NCACC CONFERENCE

Chair Lucas asked "Is there any commissioner that is interested in participating as a voting delegate to the North Carolina Association of County Commissioner's Conference? Paula do you have the dates for that?" The Clerk responded "August 22<sup>nd</sup> through August 25<sup>th</sup> in Guilford." Chair Lucas continued "August 22<sup>nd</sup> through August 25<sup>th</sup> at the Koury Center in Guilford County. Is there any commissioner that is interested in participating?"

Commissioner Hall stated "Madam Chair I think it would be good if our chair or vice chair participate." Chair Lucas responded "Well I will have to tell you that I participating in that process last year and I found it very informative and very enjoyable so I don't have a problem with that."

Commissioner Jefferies moved, seconded by Commissioner Travis to appoint Chair Lucas as the NCACC voting delegate to represent the Board. The motion carried unanimously.

# <u>DISCUSSION ON APPOINTING A REPRESENTATIVE FROM THE HYCO LAKE AREA</u> <u>TO THE BOARD OF ADJUSTMENTS</u>

Chair Lucas stated "What this is, in going through the Unified Development Ordinance process it has come to the Planning Board's attention and to my attention that the Board of Adjustments had lacked a representative on the Board of Adjustments from the Hyco Lake area which is the only zoned area in the county and by statute we should have a representative from that zoned area representing that particular area on the Board of Adjustments. What we need to do as a board is to advertise for the position and I needed to make the board aware that this is what we need to do. It has not been a consideration in the past because there was no knowledge that it was a necessity in the past but going through this process we have learned that we definitely need to have that representative on the Board of Adjustments for variance appeals or request or for whatever purpose the Board of Adjustments serves."

Commissioner Hall asked "Are we going to have discussions about appointing a separate Board of Adjustments as opposed to this Board being the Board of Adjustments?" Chair Lucas responded "Well that was brought up previously through the UDO process. The Planning Board had three recommendations that it stay as it is with the county commissioner board being the board of adjustments or a separate board of adjustments consisting of planning board members and board of commissioner members or an entirely separate board of individuals from neither board." Commissioner Hall continued "I think we need to make some kind of decision because if we do nothing it will just add one member to this board then we will have 8 members with no plan or thought on the process. We can either create another board or amend what we are doing

or decide how many members we are going to have, we need to do something other than just add members."

Commissioner Travis stated "I thought we voted to let it as it is." Chair Lucas responded "I am thinking we voted to leave as the Board of Commissioners." Commissioner Hall stated "We probably did but once you add a member to it that is not leaving it like it is." Chair Lucas responded "Well legally we have to have this representative and I will let the county attorney weigh in on this."

Mr. Ferrell stated "I believe this came up at your first meeting in June, this discussion about or this question from the Planning Board whether the composition of the Board of Adjustments should be appointed by this body or remain this body which is what it is now. At that time I mentioned to you that there is some legislation working its way through the General Assembly about the composition of the Board of Adjustments, appeals for hearing items by the Board of Adjustments and various other things dealing with the Board of Adjustments. Late last week that legislation was signed into law by the Governor so to the uncertainty to the extent that there was any about what legislation was going to do with the Board of Adjustments matter for this session at least is closed and that has been codified. The county has the right to appoint the board of adjustments and it could also accept the responsibilities as itself, the county commissioners can serve and sit as the Board of Adjustment. I believe those are the options that the planning board mentioned to you. The legislation does say to the extent practical you should appoint members from each zoning district within the county. Now in my view that does not make sense if this board is going to sit as the Board of Adjustment to appoint another member. If you are sitting by virtue of your role as the Board of Commissioners in my view it does not necessarily make sense to appoint another board of adjustment member to sit with you in your ex-officio capacity as commissioners sitting on the Board of Adjustment."

Commissioner Hall stated "But it is practical, practically impossible." Mr. Ferrell responded "I have never heard of that being done. I can do some research to see if anybody else is doing that across the state. I have never heard of that. Now..." Commissioner Hall continued "When you were reading the legislation you said what is practical." Mr. Ferrell responded "It says when practical you should have somebody from each zoning district." Chair Lucas asked "What does that mean?" Commissioner Hall responded "That means when it is possible and that is not possible." Mr. Ferrell stated "Right and obviously you are sitting as a board and then you appoint someone to sit up there with you guys as commissioners and also serve as this board of adjustment that gets..." Chair Lucas responded "But we are sitting as a separate board. We are not sitting as the Board of Commissioners; we are sitting as the Board of Adjustments." Mr. Ferrell stated "You have appointed yourself as a body to serve as the board of adjustment which is different from saying Commissioner Hall is appointed to the Board of Adjustment, Commissioner Travis is appointed to the Board of Adjustment..." Chair Lucas responded "We are collectively sitting as the Board of Adjustments." Mr. Ferrell stated "That's right. Due to the nature as role of county commissioner you are sitting as a member of the Board of Adjustment." Chair Lucas responded "I thought it was a separate board and the issue is we have never had a representative from the only zoned area in the county which is the Hyco Lake area that is zoned." Mr. Ferrell asked "Is there somebody elected from that district? Does somebody's district include the Hyco Lake area?" Commissioner Williamson responded "Three of us do." Chair

Lucas asked "Would that be considered? Would at-large be considered? I guess they would be considered." Mr. Ferrell stated "Again the issue in my mind would be if this board decides to appoint a separate board of adjustment which I think has merit in considering that notion. If you do that then I would be saying to you, you need to include someone that lives in the Hyco Lake area." Chair Lucas responded "Well I have not considered the fact that we have two at-large commissioners that represent that area." Mr. Ferrell stated "The entire county. It is just a way to think about the issue." Chair Lucas continued "It might be a mute point until we address the UDO now that this fact has been pointed out that the at-large commissioners would represent the Hyco Lake zoning area."

Commissioner Williamson asked "Have we had problems with the Board of Adjustments in the past?" Mr. Ferrell responded "I don't know about problems let's say but it is a valid concern to address the statute that says to the extent practical you need have somebody representing the zoned area and I think that is a legitimate concern. I think you are doing that essentially now as the Board but if the decision is to move forward with a separate board of adjustment there is no doubt in my mind that you should consider appointing someone that lives in that area. I don't know if that answers your question. I don't think there have been too many variances and I am trying to remember if there was one in the Hyco Lake in the last couple of years. Kevin said he does not remember an appeal from that area in the last couple of years."

Chair Lucas stated "Well I guess it would be practical to address it at the time we address the UDO." Commissioner Hall responded "I don't see the relationship."

Commissioner Travis moved, seconded by Commissioner Jefferies to leave the Board of Adjustment as it is.

Chair Lucas stated "There has been a motion to leave the Board of Adjustments without a Hyco Lake representative." Commissioner Hall asked "Is that necessary?" Chair Lucas stated "Well it was my understanding that any variance that has been requested up to this point might be able to be challenged because we did not fully have the Board of Adjustments representing the county." Commissioner Travis responded "Everybody in this county has a commissioner that represents them. There is a commissioner in every area."

Upon a vote of the motion, the motion failed by a vote of 3 to 3 with Commissioners Hamlett, Hall and Lucas.

Commissioner Hall stated "I think a discussion does not automatically mean that we need to do a motion. I just found it totally irrelevant."

Mr. Ferrell stated "If you are not changing anything I guess it is procedurally a nullity but I believe I recall that at your June meeting Commissioner Hamlett voted to table the matter for 60 days. This is just a procedural timing issue; you are not changing anything so it technically does not matter." Commissioner Hall responded "Well the tabled motion should have been pulled back." Mr. Ferrell responded "That is right. I am refreshing my recollection but I believe my recollection was and I don't know if anybody else...Madam Clerk to do have that recollection?" The Clerk responded yes." Chair Lucas stated We tabled the matter on the Board of

Adjustments for 60 days okay that settled it right there." Mr. Ferrell stated "It sounds like you had a discussion and you see where some of the Board is leaning. Essentially it was a 3-3 vote so it has not effect." Chair Lucas stated "It was on the agenda for discussion purposes." Mr. Ferrell responded "And to the extent that the tabled motion comes back 60 days from June 3<sup>rd</sup>..." Chair Lucas stated "So we will revisit this in 60 days." Mr. Ferrell continued "And that might go right along with what the Planning Board and I don't know what their schedule is but I know that is all with moving through the process and it might hit at an appropriate time with the UDO." Chair Lucas stated "I guess the discussion on the issue was the point of bring the Board up to date on the issue of Hyco Lake being a separate zoned area in the county and it was the Planning Board's thought when it was being discussed that there was no representation. The fact that we have two at-large commissioners we will have to figure that out. I don't know. Any other discussions on the Board of Adjustments?" Commissioner Hamlett responded "You really have 3 Cathy. Mr. Jefferies is in District 3." Chair Lucas stated "But he is not in that, there is a definite zoned map and I don't think..." Commissioner Hamlett responded "He still represents that area."

#### DISCUSSION OF 86 WATERLINE PROJECT

Chair Lucas stated "This is on the agenda for discussion purposes just to bring the Board up to date as to what the Chair is aware of with this project, which is very little. I went back and reviewed the minutes since I came back on the Board as to what has taken place with this particular project. In 2010 you got a copy of a water purchase agreement that was agreed to by the Board to purchase water from the county by the town by way of the water line coming out of Danville and a resolution to that effect. What seems to be happening at the present time, the town is moving forward. The last minutes that I was able to get a copy of reflecting when Mr. Brigman, the town manager, came before the Board and gave us well he outlined what the plan was for the town as far as how they were proceeding with the project and he was to get back with us and I think that was in 2011. I don't have that in front of me right now but anyway the latest information from the town pertaining to this Board that I think the full Board is aware of is that they were going to get back with us. They were looking at engineering the project, the water line to North School and that they would be coming back to the Board with more information. Then subsequently we learned that there was a meeting with the School Board about connecting to the line at the school and putting some sort of connector there at the school and the full Board was not aware of that meeting. We discussed that at the joint School Board meeting. From that point further there has been no further information as I am aware of with this Board as to what the town plans to do. Kevin can you give us an update?" Mr. Howard responded "I have the same information. The last time we talked the engineers were still in the drawing stage and I have not received any further information." Chair Lucas asked "They are still in the planning stages?" Mr. Howard responded "I have not talked with anybody for several weeks about it." Chair Lucas asked "Can you tell us what the role of the county is with this project that the town is undertaking?" Mr. Howard responded "As the project stands our role is we would be selling water. There is no other agreement at this point in time." Chair Lucas continued "And there has been no discussion to your knowledge us giving the water line from the school to the Virginia line to the town? Has there been any discussion about that?" Mr. Howard responded "No, the only time it has been discussed is in the joint meetings with the towns when they have brought it up."

Commissioner Williamson stated "It was discussed during the joint meetings with the towns. I know we have not voted on anything but it has been talked about in those meetings that they would like to have those lines that is from Danville back to the school because they could supply water to a trailer park up there and they would not have to put in any new lines beside the lines that were in there. Now that was my impression from the meeting with the Town of Yanceyville and Milton." Chair Lucas stated "I must have missed that meeting because I don't have any knowledge of that discussion." Commissioner Williamson responded "I am pretty sure I did not make it up." Chair Lucas stated "I am not saying that. I am sure the discussion took place." Commissioner Williamson responded "I think it is not a sense of what was done. I think it is a sense of this Board making a decision to allow Yanceyville to provide water to the school and to allow those lines that are up there to be serviced by Yanceyville versus us having to upkeep. They said they had water problems because there was not enough water usage over there and these were the items that I heard."

Commissioner Jefferies stated "But Kent Yanceyville went to the City of Danville on their own and did this but I think this Board went to the City of Danville to get the water out there. I think it should have been this Board's job to go to the City of Danville and make an agreement with them rather than Yanceyville." Commissioner Williamson responded "I am not agreeing, I am saying to be proactive and go ahead and handle something that needs to be handled. I am saying Yanceyville has asked us to turn those lines over to them."

Chair Lucas stated "Well it is more of an issue of and it comes down to fairness in a way because you are going to incur double water rates for anybody that hooks onto that line. Talk to the people over in Providence that are already paying double water rates from the town. Right now the county has control of the line from North School to the line. You are saying there are problems with it, with reading issues at the school and it is my understanding by talking with the officials at Danville that this occurs during the summer months when there is very little water being used and they are not flushing those lines on a regular basis. You can make it sound like anything you want to if you really want that water line to be taken over by the town and I think there has been an unfair bias going on this Board with that situation." Commissioner Williamson responded "Well that is why I said that we need to go over there and talk with Danville." Chair Lucas continued "Absolutely. It has been done behind the scenes sort of and I don't really appreciate the way it has been handled. Any other comments from commissioners?"

Commissioner Hamlett stated "Like Mr. Williamson said we need to get together and talk with Danville." Chair Lucas responded 'Well we have been told that Danville does not want us any longer or they are willing to give us up as a water customer. That goes completely against what I was told. They have an excess of water right now and they don't want to give us up as a water customer." Commissioner Williamson stated "Okay that is why we need to go over there and talk to them as a Board." Chair Lucas responded "Well they will be happy to come and talk with us at any time. Do you want to schedule that for a commissioners' meeting?" Commissioner Williamson asked "Oh yeah. How do you know that they will be more than happy to do this?" Chair Lucas responded "The gentleman with the water department, Barry Dunkley, he is very forthcoming and he is very knowledgeable and said anyway he could help he would be willing to do that and he would be willing to come before the full Board." Commissioner Hamlett

responded "We need to." Chair Lucas asked "Would you like to have him come to a commissioners meeting?" Commissioner Hamlett responded "Yes that way we can get the information correct and not all this hearsay." Commissioner Hall stated "Keep in mind he does not have the authority to make any deals." Chair Lucas responded "No, he does not but he said anyway that he could..." Commissioner Hall continued "That is more hearsay. If we don't talk board to board it does not matter." Commissioner Hamlett responded "Well that is who I want to talk with, the board." Chair Lucas stated "So do you want to meet with the Danville City Council?"

Mr. Howard asked "Would it work to have maybe to have the city manager come and talk with us first?" Chair Lucas responded "I just think this Board needs to have all the facts before we agree to anything concerning this water line project with the town." Commissioner Hamlett stated "Well I think the consensus wants to talk to somebody over there." Chair Lucas responded "Okay so we need to establish a meeting with...okay. I will be happy to set that meeting up."

Commissioner Hall stated "I think we can probably save some time if we set the meeting up with Danville and the Town of Yanceyville and get everybody in one room and talk through it." Chair Lucas responded "Well Yanceyville certainly has not given us that courtesy when they went to talk with the city." Commissioner Williamson stated "Well let's not be like Yanceyville. Let's be our own Board."

Commissioner Hamlett stated "I just think we need to talk with them and then have a meeting with Yanceyville. That is my consensus. If you do that it could either go left or right and it could get out of hand. If they are not there some people can ask some direct questions that you would not ask if somebody was there. I think it would be a benefit if we talked with them ourselves first. They probably already have the impression that we are not getting along as it is so if we all show up in one place it might make Danville mad." Chair Lucas responded "Well then I will get that scheduled, a meeting with the city manager and/or the Danville City Council."

#### DISCUSSION OF DAN RIVER RECLASSIFICATION PETITION

Chair Lucas stated "At this point I think Brian has been working on that petition and you have a letter. Do you want to bring the Board up to speed on that?"

Mr. Ferrell stated "I am happy to give you an update. At your June 3<sup>rd</sup> meeting the Board authorized the filing of a petition with the Environmental Management Commission to reclassify portions of the Dan River in Caswell County from a WS-IV back to a Class C and so I have been working since that time to gather information to begin to work on this petition. In my work I have had an opportunity to speak with several representatives in different departments of DENR about this matter. The specific request was made that the county write a letter informing DENR of the intent to petition for this reclassification giving the history of where you were with the watershed regulations and the extension of time, etc. DENR just asked if we would write them a letter just informing them of the intent to petition so I have certainly done that and that will be delivered. The next step then is the formal petition which will be brought back to the Board for review. The form of the petition is governed by 15A NCAC021.0501 and there are 9 specific

pieces of information that go to the petitioner. It is a fairly involved process so I am working through that. I have had some discussions with the Chair about some information related to putting that petition together. There is some mapping information that the planning department has to put together and so we are in the process of getting the petition ready for your review and an ultimate filing. So that is the status. Let me tell you a little bit about the procedure. From the date that the petition is filed the EMC has 120 days to either accept or reject the petition. If it is accepted then the proposed petition and administrative rule draft goes through the rule making process with the regulatory body. Depending on how many folks participate in the process the rule making process takes about 18 months or so according to DENR's experience. The first step is to get the petition in. You when then either get an acceptance or a denial of the petition within 120 days of its filing. If it is denied we can talked about what that means. If it is accepted however it goes through the typical rule making process that is about 18 months long. That is an overview of where we are and the process ahead and I am happy to answer any questions if I can."

Chair Lucas asked "So basically Brian it's the opposite of what has taken place to this point to get it to the point it is with legislative review?" Mr. Ferrell responded "That is exactly right. It is the same process..." Chair Lucas continued "So whoever is opposed to the repeal of the reclassification or rescinding of the reclassification they have to appeal to the legislature like the people in this county did?" Mr. Ferrell responded "Well there are public hearings before that would ever happen, there would be public hearings, exactly and so the process will look very much like what the county may or may not have noticed of when it went through back in 2012."

Chair Lucas asked "Any questions for Attorney Ferrell concerned the Dan River reclassification petition?"

# APPROVAL OF JOINT RESOLUTION ESTABLISHING THE CASWELL REGIONAL ECONOMIC DEVELOPMENT COMMISSION

Commissioner Hall stated "As you all are aware we have been talking with the Town of Yanceyville and the Town of Milton for the last several months about forming a multi-jurisdictional economic development board. I have been advised that the Towns of Milton and Yanceyville have taken a vote and they have agreed to be a part of this organization. I thought that we had taken a vote but as we checked back through the minutes we had not so at this point I would like to entertain a motion that Caswell join in with the Towns of Milton and Yanceyville in establishing this multi-jurisdictional economic development board."

Commissioner Hall moved, seconded by Commissioner Jefferies to approve the joint resolution establishing the Caswell Regional Economic Development Commission.

Commissioner Hamlett asked "This #9 where it says 'Additional governmental units may join the Commission with the consent of all existing members', what does it mean by additional government units?" Mr. Howard responded "If another town was to become incorporated in the county the parties would have to agree to let them come in. That is just one example of how that would come into effect. You could take that out if that is something you don't want in there." Commissioner Hamlett continued "I just don't know about that." Chair Lucas stated "He has an

issue with #9 'Additional governmental units may join the Commission with the consent of all existing members' the question is who would those other governmental units be?" Commissioner Hall responded "Well right now there are no other governmental units in Caswell County but if there was to be a new town formed and they wanted to join we all would have to allow them to join."

Mr. Ferrell stated "I think the first paragraph of the resolution speaks to the purpose of the commission which is it is created regionally to serve the resident of Milton, Yanceyville and Caswell County so to the extent that you want to extend this mission if you would outside of Caswell for some reason you would have to come back and make an amendment to the resolution because right now it is clearly intended just to serve Caswell County and Kevin's point is right occasionally a new town is incorporated in North Carolina and it would allow that town if that should happen in Caswell County to apply and if this board would have the ability to weigh in yeah or nay on that decision before you would have a new member is the way the resolution is drafted."

Chair Lucas asked "I guess my question would be can we have an example of how this separate government unit or it's an organization I guess is what it would be considered is that right? How is it considered, a separate...?" Mr. Ferrell responded "Yes the statute, the general statutes allow for a just what it says the establishing of regional economic commissions. So it is a commission." Chair Lucas asked "So it is a separate governing body? Is that correct?" Mr. Ferrell responded "Well it governs the matters that the resolution covers." Chari Lucas continued "And that is what I am asking for like an example of what would be the purpose of this? What would be an example?" Mr. Ferrell responded "I can think of lots of examples but perhaps Chairman Hall would be better suited for that." Chair Lucas asked "Of how this would work for the county and the towns?" Commissioner Hall responded "I am not quite sure I understand what you are asking here. The idea I am thinking is to get the Towns of Yanceyville and Milton and the Caswell County government to work together as we pursue economic development. That is the idea. So let's say that if any one of the governments wanted to pursue some type of economic development business this group as a whole would stand behind and support what we are trying to do because we would have the same common mission." Chair Lucas asked "Does the fact that the county has a separate economic development board organized by way of ordinance does that have anything or any impact on this whatsoever?" Mr. Ferrell responded "This is a regional commission and it sounds like you have a county commission..." Chair Lucas added "By way of ordinance." Mr. Ferrell continued "By way of ordinance but this is broader than that. I mean this is an intergovernmental effort." Chair Lucas continued "So it would not have any impact on and which right now I don't think it is functioning, the economic development board, but we do have an ordinance on the books current that has not been repealed that established a local economic development board?" Mr. Ferrell responded "I don't see those two... this in conflict with a local independent economic development board especially if it is not doing anything at present." Chair Lucas asked "Any other questions or concerns on the Caswell Regional Economic Development Commission?"

Upon a vote of the motion, the motion failed by a vote of 3 to 3 with Commissioners Hamlett, Lucas and Travis voting no.

Commissioner Hall asked "Before we move forward the three commissioners that voted against it can you individually tell me why you would not support a regional economic development commission because if there is a problem as a commissioner I would like to know?"

Commissioner Travis stated "Well I will tell you how I feel, we will have 3 different bodies and everybody is putting 33 1/3% in it. The way I take it the money they will need down there on that economic development they will take money from here and give it to Milton and Milton only put in 33 1/3%." Commissioner Williamson responded "There is no money." Commissioner Travis continued "We will have to put some money in there, sometime or another." Commissioner Williamson responded "We will have to vote on that as a Board." Commissioner Hall stated "Any amount of money according to this resolution that will be put in will be decided by the governing bodies."

Commissioner Hamlett stated "We still have problems with the water." Commissioner Hall asked "What does water have to do with this?" Commissioner Hamlett responded "They went in the back door and done some stuff behind us and we are about to have this other with the water issue with the Dan River. It is a lot of stuff on the table right now that Yanceyville does not want to talk to us about and we are going to get into something out here on 86." Commissioner Hall asked "What better way to have a conversation with people than to have a joint commission opposed to back door tactics like you just said." Commissioner Hamlett stated "Yes I know but we should have done that years ago." Commissioner Williamson stated "Well we can't live by what they did years ago we have to live as a moving forward board." Commissioner Hamlett responded "Well I have talked with a couple of them the other night and asked them about the water thing and they said well we don't want to talk to you about it." Commissioner Williamson stated "Well maybe we need to talk with them as a Board and maybe they will talk to us." Commissioner Hamlett stated "Well we tried that. We have tried that years ago. I would love to discuss that with them." Chair Lucas stated "Well I am open for discussion with anybody and about anything but I don't think we have to have a separate..." Commissioner Hamlett stated "I just think we need to put everything on the table, he is right we need to talk about several different things. When we meet every time we eat but we ain't talking about nothing."

Commissioner Hall stated "I asked the question. I wanted to know if there were genuine, sincere reasons why and Mr. Travis said he does not like the idea of putting that 33% of nothing. You said you don't like the idea because of the water dealings and the water deal as far as I am concerned is not 100% an economic development issue in my mind. Ms. Lucas?"

Commissioner Lucas stated "I don't think the Town and not to say anything about Milton but the town has not been forthcoming with the county and I don't know about the rest of this Board but we are here to represent the county population and while it does influence what goes on in the towns we all need to work together and I am all for working together however it has to be fair and equitable and at this point in time I just don't see where that has happened with the dealings with the town. I understand the issue with economic development but right now I am not at a position where I can support it."

Commissioner Hall stated "I don't think you understand, fair and equitable is subjective and it appears that you have made based on one or two items that you are not going to support a multi-

jurisdictional economic development commission." Chair Lucas responded "Commissioner Hall we just got through finishing our budget where we talked about departments that the town, that we are supplying services for and we are not receiving any funds whatsoever from the town." Commissioner Hall stated "That has nothing to do with the economic development commission." Chair Lucas responded "But I don't like being taken advantage of." Commissioner Hall stated "If we are being taken advantage of it is our fault." Chair Lucas responded "Well you are right about that." Commissioner Hall continued "And if this Board is providing services to the town or anybody and requiring to be reimbursed that is this Board's fault and now you are going to take it out on the full county because you are responsible for part of being responsible. You don't want to be a part of doing anything but you will try to block something."

Chair Lucas asked "Any other thoughts or concerns about the economic development commission?"

Commissioner Jefferies stated "Well my thing is we are losing time. We are fooling ourselves by not meeting with the town. That is the reason why we were meeting together to get a better understanding and to get better communication but now you are saying we don't need to do this." Chair Lucas responded "Maybe we could do this; maybe we could ask the town if they would agree to dissolve their agreement with Roxboro and join us in our petition with DENR?" Commissioner Hall responded "Your agenda is one sided. From what you are saying based on Mr. Jefferies conversation you are not willing to negotiate or compromise with anybody. You just want to block, block, block and now you are bringing up to dissolve something. The first thing we need to do is to sit down as professionals and talk about things." Chair Lucas responded "I would be more and willing to sit down with them under those circumstances and I am not blocking anything. They dictated to us. They dictated to the county." Commissioner Hall stated "You are a dictator." Chair Lucas responded "No they are going to continue to dictate the county if we don't start standing up."

### DISCUSSION ON HIRING A CONSTRUCTION LITIGATION ATTORNEY

Chair Lucas stated "At this point we interviewed two different law firms concerning construction litigation. I think we got some prices as far as what their rates were sent to us by way of email. Any comments from the Board members?"

Commissioner Jefferies stated "Basically I looked at the two lawyers and the two groups and if I had to vote for one I would vote for the second one because he had better rates than the first one. He had different types of rates depending on the types of jobs he had to do so I would have to go with the second one. That is my opinion."

Commissioner Hamlett asked "I know we need to do it but where will we get the money from? It is going to be a lot of money."

Chair Lucas asked "Well I think my question at this point is do we have a definitive time frame, did they give us that Mr. Ferrell with which they think they could settle this?" Mr. Ferrell responded "I did not hear either one of them predict a time frame." Chair Lucas continued "I think we would want some sort of idea about what our damages are that number as opposed to

how much time it is going to take. If we are going to go into mediation or litigation I think reading through their summaries they did not favor litigation, they favored mediation." Mr. Ferrell responded "I think universally lawyers will tell you that litigation is an extremely expensive and cumbersome process and it is to be avoided if possible. I think you heard that from both attorneys and you will certainly hear that from me. It is consistent with my view. Are you saying that you would...I think until either one of these firms gets involved and digs into the facts it is going to be impossible for them to predict or estimate what sort of recovery or giving an opinion to you on what a recovery might look like. My suggestion would be is if you decide that the Board wants to move forward with hiring an attorney for the jail construction project that it seeks a budget outline in an engagement letter with the firm that you choose or something like that. I believe you heard both firms say that they certainly would communicate as the process moved along about where they were and what the expectation of that phase of the work was. I don't know if I am being responsive to your question, I am sorry but I am happy to address it again if I have missed it." Chair Lucas stated "That is fine."

Chair Lucas asked "Any questions or concerns from commissioners?"

Commissioner Hamlett asked "I just feel like we have but one to go after, the architect. I mean the rest of them...he is the man in charge so he is the man you need to go after. Am I right?" Mr. Ferrell responded "I think that there needs to be a holistic view for all options for recovery. Certainly in the multi-prime contracts you have liquidated damage provisions to the extent contractors are responsible for certain delays. I certainly would say that they need to be evaluated as well as design issues and other issues that may have added additional costs to the project. On a high level that is how I believe that a litigation attorney would approach it." Commissioner Hamlett continued "I think he needs to get on board with us, didn't he say that, the architect with us and go after them which don't make sense?" Mr. Ferrell responded "Well what I think the architect had said is that he will provide a delay schedule, the reasons for delay, his analysis of why there were certain delays in the project and I think that would be appropriate for the architect and the project manager to provide the county with that information. Ultimately the contract, these multi-prime contracts are between the county and the contractor and not the architect or the construction manager."

Commissioner Williamson stated "With us getting litigation lawyers it seems like it is kind of an open ended thing. In other words they can hang on and go through the process and build up a lot of hours in it and from what they were telling us that most of the time you go through this nobody wins, that is what they were saying. That is the impression I got by the both of them and they did not give us any positive points of why we should be doing this." Mr. Ferrell responded "I can tell you my view which has not changed from February on why I recommend that you do this. It is two-fold. One is there are avenues to be pursued in the form of bonds the contractors have put up, bonding companies who have signed on to be responsible to come finish the project to the extent that it is not finished. I understand today that you heard things are moving along pretty well but what I hear is I hear that some weeks and we come back and I hear well two steps back and that is my first reason why I think a construction litigation attorney would be good. Even now at this date in the process it is because they have the expertise to hone in on the issue that is impeding the completion of the project and apply leverage to those aspects of what is problematic in the project and get the thing finished. I think you heard from one attorney that

was before you that was about a jail project that looked like it was 90% done and a year later they moved in the jail. Do I think that is going to happen here? I hope not and I don't think so but it has gone on and we were supposed to be in it in December then January, then February and now it is July and we are not in. That is one point. It is to help apply pressure that is needed to get this project closed out. The second piece is there were delays. There were problems with certain aspects of this project. There may be some avenue for the county to recover some damages and expenses as a result of those delays. Can anybody guarantee that you will recover sufficient to offset legal bills? No. Can anyone guarantee you that at the end of the day once the negotiation or mediation or whatever happens that there will be a substantial recovery? No but I think there is a possibility of that and given the advantages of applying leverage to get in the jail and to get the project finished out and then having an attorney available to help clean up any potential damages issues those are the two basis upon which I continued to make the same recommendation I made to you in February."

Commissioner Hamlett asked "Where do the performance bonds come in at?" Mr. Ferrell responded "Performance bonds are keys so if for instance one of the contractors, we have heard a time or two he just walked off the job right? I have heard the same thing you have heard. He just walked off. Well depending on how's scope of work that was each contractor is required to put up a payment and performance bond so the deal is if a contractor just walks off the job the bonding company is responsible for either hiring someone else to come in and finish that scope of work or more realistically applying pressure on the folks they are insuring to come back here and get this job done. That is essentially what the payment performance bonds are. There has been some suggestion well I will leave it at that. They are there and that is what the purpose is and I think a construction litigator will tell you when it is time to tap that source and when it is effective to do so."

Chair Lucas asked "I heard the question asked where would the money come from to pay for this." Mr. Howard responded "The general fund."

Commissioner Jefferies asked "How much money do we have left in the project?" Mr. Howard responded "We still hold a minimum of 10% of each individual contract until they are actually finished and they have done a punch list and pay back. Some are further out and I don't have that amount with me but most are around that 10% because they are almost finished."

Chair Lucas asked "Kevin what is the dollar amount in the project fund?" Mr. Howard asked "That is left? You have the two hundred and some thousand for the connector. The right much money left in the contingency so probably half a million dollars or six hundred thousand. I don't have an exact number." Chair Lucas continued "We have not built the connector right is that correct?" Mr. Howard responded "Correct and that is just off the top of my head. I would have to look."

Mr. Ferrell stated "I am sensitive to the fact that hiring a legal specialist is expensive and I just want to let the Board know that there are various ways that you can address your comfort level if it is a cost issue including a not to exceed in a phase one portion of a contract is an option with one of these lawyers. The concern that is just spirals on and you have an uncontrolled legal bill.

There are certain ways that we can certainly manage that piece of it if that is and again I don't know if that is impacting your thoughts or your decisions."

Commissioner Hamlett asked "They don't work on contingency?" Mr. Ferrell responded "Some lawyers do the contingency bases fee structure. I have not asked these lawyers. I would venture a pretty positive guess the answer would be no. Personal injury lawyers and collection lawyers and when I say collection you have a bad debt and you hire somebody to go after the bad debt for the business or a promissory note or something certain and also in a car accident when everyone knows there is going to be some recovery it is just a question of how much lawyers will take those type of cases on contingency. This is a contract case and I have never seen a contingency fee agreement in this context. I think what you heard from these lawyers is they can't predict that there will be any money coming back to you at the end of the day so therefore my guess is they are not willing work to any basis but hourly and we asked them for your fee structure we got hourly proposals back. Nobody made a contingent fee offer. I have never seen it in this context and I think it would be very unlikely if they would take it."

Commissioner Jefferies stated "I thought the purpose of the performance bond was to protect the county if they did leave or it they did not do what they were supposed to do." Mr. Ferrell responded "Well you have a bond but keep in mind a bond company is an insurance company so essentially you have to make a claim. It is a claims process and so my recommendation is when you are in this claims process just like if you were injured in a car accident you would go through a claims adjustment process with and attorney I would recommend to you that now I am a lawyer but I would recommend that you would hire a lawyer to go through the insurance claims process before you sign anything. That is an analogy process I think is fairly similar in this case. As you deal with these bond companies who are going to have lawyers on staff deciding whether or not they should pay claims or send another contractor out."

Commissioner Hamlett asked "Is that in your territory?" Mr. Ferrell responded "I don't do and again that is in construction litigation and these bonds are specific to the construction industry. We heard specifically from the Lewis & Roberts' firm that they have quite a bit of experience in representing and dealing with sureties and it is part of their practice. That is a routine piece of what they do. They represent sureties sometimes and obviously attached sureties in construction cases."

Chair Lucas asked "What is the pleasure of the Board to hiring a construction litigation attorney?

Commissioner Hamlett moved, seconded by Commissioner Travis to table the issue of hiring a construction litigation attorney for 30 days.

Commissioner Hall asked "What is the rationale?" Commissioner Hamlett responded "In four more weeks we will see where they are at. I mean I am not ready to hire an attorney just yet. I would like to find out more about that performance bond too." Chair Lucas asked "Well how do we go about finding out about those?" Mr. Ferrell responded "We have copies of them in the contract documents. The county manager can copy all of that for you." Chair continued "But what will that tell us?" Commissioner Hamlett responded "Well I would like to find out..." Chair Lucas stated "We should already know about that." Commissioner Hamlett stated "I don't

see why we can't make a claim or contact them and let them know that they are on notice." Mr. Howard responded "It is my understanding that letters have already been sent to the bond companies to let them know we are having issues with this project." Commissioner Hamlett asked "So they already know?" Mr. Howard responded "Yes that is part of this process."

Commissioner Jefferies stated "This suit thing could be as long as 3 years. They could drag it out for as long as they want." Mr. Ferrell responded "Yes, this is a long process to get through. There is no denying that." Commissioner Hamlett stated "And there is a lot of money that is going to be involved in it. These guys did not come up here for nothing and it is going to be big money." Mr. Ferrell responded "I think they see this as a good client and a good case and I don't think they would have come otherwise. I think that is right."

Chair Lucas asked "So your advice Attorney Ferrell would be you have been giving us the same advice since February?" Mr. Ferrell responded "My advice has not changed and it does not change tonight. I think you have two good choices."

Mr. Howard stated "Just by saying we have even if we don't proceed just by saying we have retained an attorney give more leverage when we have discussions with the contractors." Commissioner Hamlett responded "I agree but that is a big step when you make that."

Upon a vote on the motion, the motion failed by a vote of 2 to 4 with Commissioners Hall, Jefferies, Lucas and Williamson.

Commissioner Hamlett asked "Well what are you going to do about that then, it failed, you have to do something?"

Chair Lucas asked "What is the Board's pleasure?" Commissioner Jefferies asked "Which one?" Chair Lucas responded "In your motion include your preference."

Commissioner Hamlett stated "There are several things to ask too. Are you going to give them the free will and turn the check book over to them or which one do you want?" Mr. Ferrell responded "Yes I will just refresh your recollection for the public. Neil Yarbrough from Fayetteville was the first attorney who came before you in your interview. The firm of Lewis and Roberts, Matt Bouchard and Mr. Lewis came before you for the second interview."

Chair Lucas asked "And what was the rate for Mr. Yarbrough?" Mr. Ferrell responded "Mr. Yarbrough's rate is \$300. He also said his partner, Ad Winters who wrote the books, the construction law books that he brought with him would be doing quite a bit of the work on the case should they be engaged, his rate is \$250 an hour and I will flip to the rate sheet for Lewis and Roberts. I am sorry it was Jim Roberts and Matt Bouchard who came before you. Their rates were: Jim Roberts' rate is \$250 an hour, junior partner, Matt Bouchard's rate is \$225 an hour, their associate rates are \$200 an hour, and their paralegal rate is \$135 an hour." Chair Lucas continued "And the only two rates we got from Mr. Yarbrough were for the overall firm and then for Mr. Ad Winters who would be the lead attorney at \$250?" Mr. Ferrell responded "Right, Mr. Yarbrough's hourly rate is \$300 and Mr. Ad Winters was \$250 and I think the

assumption is those would be the two lawyers from their firm who would be handling the case. That was not an assumption; I believe that is what he said."

Commissioner Hall moved, seconded by Chair Lucas to engage with the firm with Neil Yarbrough to act as construction litigation attorneys.

Commissioner Jefferies asked "What that the second group of attorneys?" Chair Lucas responded "No it was the first group."

Commissioner Hamlett stated "I would say put a money limit but you can't so..." Chair Lucas responded "Put a time frame." Commissioner Hamlett continued "No you can't put a money thing or a time frame on it until we start it."

Commissioner Williamson asked "Can we go back and add another motion that Mr. Ferrell give us some type of structure that we can use in order of phase we would go through in order to work through this process?" Mr. Ferrell responded "I can certainly ask in the engagement letter in which the Board chair would sign if this passes that they outline a scope of work and an estimated fee structure for the different phases of work." Chair Lucas asked "Would that come back to the Board for approval or not?" Mr. Ferrell responded "I think it is the Board's pleasure how you want to proceed. If you want to see that again we can bring it back if you approve the engagement we can do that."

Commissioner Hall stated "Madam Chair I think it is reasonable to expect. The only thing we have done is the interview process if we indicate an interest in signing an engagement letter I think it would be appropriate to have a sit down and ask those questions and have some discussions so the Board would have a general idea of where we are going. I think that is reasonable." Mr. Ferrell responded "I think it is too and I think once you make a decision to engage a lawyer to ask them to come present to you in attorney/client privilege situation their approach, their initial analysis, how they see this going, is completely appropriate and I believe you heard Mr. Yarbrough say he would be back here if you wanted to talk to him and the same for the Lewis and Roberts firm for that matter."

Commissioner Jefferies stated "I think this first attorney was and if I am wrong somebody correct me but he was going back and start from the beginning instead of asking what could he do to finish this project. We don't need an attorney to finish this project we need an attorney to find out how we can get some of this money back. That is what he said because I asked him the question about what kind of figure we could give us and that is what he said he would start at the beginning and see who he could bring in to finish the contract. We don't need an attorney to come in here and finish this project we need somebody to find out why they did not finish it on time." Commissioner Hall responded "I think that was part of the interview process and the process was the assumption that the project was not finished. The project is still not 95% complete. We still have to look at finishing it and then filing claims. I don't think there was an understanding with either one of them that they are just going to finish the project."

Commissioner Williamson added "And that would be determined when he identified the phases they would have to go through. I don't think they could come in here and the first phase he would go through would be the finish the project. He would have to get his information

together." Commissioner Jefferies responded "That is what the man said." Commissioner Williamson continued "I understand what you are saying but at that point we could just stop right there." Mr. Ferrell stated "The client directs the litigation at all times throughout the process. The attorney can suggest or make an opinion to you on a direction but this Board has the full discretion to do what it sees fit."

Upon a vote on the motion, the motion failed by a vote of 3 to 3 with Commissioners Hamlett, Jefferies and Travis voting no.

### APPROVAL ON REPAIRS TO AMBULANCE 205

Mr. Howard stated "As we discussed the repairs will cost \$8,000. Commissioner Jefferies asked about a warranty I think. It is a 12 month warranty on that work. Was there a mileage limitation on that?" Mr. Sicz responded "No." Mr. Howard continued "There is a 12 month no mileage limitation on that work."

Chair Lucas asked "Does anybody need any more information on the repair to ambulance 205?"

Commissioner Hall asked "Refresh my memory on what we are repairing?" Commissioner Travis responded "8 injectors and the steering column." Commissioner Hall continued "Now at the Saturday meeting there was some discussion about the cost difference." Commissioner Travis responded "Yes it was. He was going to put 2 injectors in then I suggested putting 8 in and then they brought up the steering box." Commissioner Hall asked "Now did we determine what caused the steering box to be messed up?" Mr. Sicz responded "No sir, maybe one of these two gentlemen can give you some insight on that." Commissioner Hall continued "They don't know anything about why the equipment is torn up."

Chair Lucas asked "How long has the unit been out of service?" Mr. Howard responded "It has over 180,000 miles on it." Commissioner Travis asked "What did they say was wrong with the steering box?" Mr. Sicz responded "I did not get the specifications. All he said was that it was worn and that it needed to be replaced. It is not functioning as it should."

Commissioner Williamson asked "Do we have a written estimate on what they are actually going to do?" Mr. Sicz responded "I don't have one with me sir. I can get it tomorrow but it is the steering box, all the injectors and all the fuel and oil related to it and to put it back together and to put the cab back on. I don't know the exact details."

Chair Lucas asked "Who is doing the work?" Mr. Sicz responded "Piedmont Ford." Chair Lucas continued "And how many trucks do we have in service right now?" Mr. Sicz responded "Four, ma'am. Actually 3 ½ and I am not being sarcastic but 203 has the problem with the manifold related to the turbo. It still can be driven but it was recommended that it not be driven excessively and it makes a loud whistling noise when it is driven. It can be used in a necessity but it is not being used so actually we have 3."

Commissioner Hall asked "What is the cost estimate?" Chair Lucas responded "\$8,000." Mr. Howard added "The original was for \$5000 for the two injectors. This is to change all 8."

Chair Lucas asked "Is this money in your current budget?" Mr. Howard responded "It will be taken out of last year's budget." Chair Lucas continued "So there was money available?" Mr. Howard responded "Yes ma'am."

Commissioner Hall stated "I still have a problem with understanding with what the county manager with there was still money in last year's budget." Chair Lucas responded "He said there was money still in that budget. It was carried over so it would be available." Commissioner Hall stated "Money does not carry over unless we carry it over." Mr. Howard responded "I am saying that is a possibility that you can do that." Commissioner Hall stated "We have not done it then it is not there." Chair Lucas asked "Where would be find the money for this Kevin?" Mr. Howard responded "Well if the money from last year's budget has not been spent then it goes into fund balance so it is available through your fund balance. My suggestion would be to use it out of the capital fund."

Commissioner Travis moved, seconded by Commissioner Hamlett to approve the repairs for Ambulance 205 in the amount of \$8,000.

Commissioner Williamson stated "Spending that kind of money I still think that we should have had a written itemized estimate of what is being done."

Upon a vote on the motion, the motion carried by a vote of 4 to 2 with Commissioner Hall and Williamson voting no.

# COUNTY MANAGER'S REPORT AND UPDATE Water Issue Concern at Courthouse Update

Mr. Howard stated "This is about the Register of Deeds and the Tax Office the last couple of rains we have had nothing to come in. If anything it has been a very, very, very small amount. We have had discussions with the site contractor about coming back out when he fixed that fire hydrant we have discussed at time they offered at no charge to come in and to dig up that line to see if it is something they did when they were out here. As soon as they come on site we will be addressing that issue. Any questions about that?"

Chair Lucas asked "Is this Bordeaux?" Mr. Howard responded "It was a subcontractor for Bordeaux but Bordeaux would be the contractor responsible."

Mr. Howard stated "The second issue and Brian may want to chime in; Mr. Andrews that was here has filed his appeal with the state over his tax appeal." Mr. Ferrell added "Mr. Andrews was here before the Board of Equalization and Review appealing the valuation of his property and he has appealed the decision of the Board of Equalization and Review with the North Carolina Property Tax Commission. Shelley Easton who has been doing property tax work for 30 years and who is affiliated as a counsel for my firm will be handling this matter."

Chair Lucas asked "What will that entail Brian?" Mr. Ferrell responded "Motion and hearings with the Property Tax Commission in Raleigh. The Board of Equalization and Review's position is clear in its valuation. It is one number and Mr. Andrew's believes that it is another

number so he gets an opportunity to present his case to the Property Tax Commission. That is where appeals from the Board of Equalization and Review go." Chair Lucas continued "I am just curious, has this Board ever had that to happen before?" Commissioner Travis responded "No." Mr. Ferrell stated "It is very common across the state to have matters appealed. I don't know if you have ever had that done before or not but Ms. Easton in my office handles appeals all across the state for counties."

Mr. Howard stated "If you remember back towards the end of May or the beginning part of June the town had a consultant to come in and did some looking at the court square and other things around town. They have offered to come and present that plan or what they have put together or looked at to this Board if you would like for them to come since it pertains to things on the court square. They said they wanted to come to one of your meetings so you could see what they put together."

Chair Lucas asked "What is the name of the group?" Mr. Howard responded "It was several different consultants but together by PART, Piedmont Authority for Regional Transportation as part of a grant through the Piedmont Together and Yanceyville was one of the towns they chose to come do this and they are going to present to the town this month and they have offered to come and speak to you all afterwards if you would like that." Chair Lucas continued "Maybe you can get them on the agenda for the next meeting or check some dates on when they would be available."

### UNC School of Government Class – PELA

Mr. Howard stated "And the last thing, next week the  $8^{th}$  through the  $12^{th}$  I will be in Chapel Hill at the Public Executive Leadership Academy taking that course."

#### ANNOUNCEMENTS AND UPCOMING EVENTS

- B. Board of Commissioners, Town of Milton and Town of Yanceyville Joint Meeting Thursday, July 11<sup>th</sup> at 6:00 Historic Courthouse
- C. 106<sup>th</sup> Annual NCACC Conference August 22025<sup>th</sup> Guilford County

#### **CLOSED SESSION**

Commissioner Williamson moved, seconded by Commissioner Hamlett to discuss matters relating to economic development (NCGS 143-318.11(a)(4)), to consider the compensation, terms of appointment and performance of an individual public officer (NCGS 143-318.11(a)(6)) and to preserve attorney/client privilege – Linda Palmer, Administratrix of the Estate of Crystal Truitt vs. Caswell County, North Carolina; Sheriff Michael L. Welch; Deputy Cole Edwards; Deputy Chelsea Warren; Lieutenant A. D. Rainey; Lieutenant T. Durden; Sergeant Mable Gunter; Corporal Young; and the Ohio Casualty Insurance Company 1:13-cv-492 (United States Middle District of North Carolina). (NCGS 143-318.11(a)(3)). The motion carried unanimously.

### **REGULAR SESSION**

Commissioner Travis moved, seconded by Commissioner Jefferies to resume regular session. The motion carried unanimously.

Commissioner Hamlett stated that the NC DOT needed to be contacted about Highway 86 going towards Hillsborough. He stated that the road was just paved last year and that it was very bumpy and that the DOT needed to be put on notice.

Commissioner Jefferies stated that the temporary bridge on Yarboroughs Mill Road had been completed.

<u>ADJOURNMENT</u>	
At 8:50 p.m. Commissioner Travis moved, second the motion carried unanimously.	onded by Commissioner Williamson to adjourn.
Paula P. Seamster Clerk to the Board	Cathy W. Lucas Chair

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